IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1345 of 1997

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SURAT JILLA KHARID VECHAN SANGH LTD.

Versus

SONGADH TALUKA JANGAL KAMDAR SAHAKARI MANDALI LIMITED

Appearance:

1. Civil Revision Application No. 1345 of 1997

MR NAGIN N GANDHI for Petitioner No. 1-3

MR DR DHIMAR for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 10/02/2004

ORAL JUDGEMENT

The present revision application is filed by the original decree holders in whose favour final decree has been passed by the Board of Nominees, Surat, in

Arbitration case No.993/1989. The Lavad Court passed the decree for recovery of Rs.71,932.85 ps. with 18% interest. In view of the aforesaid award of the Board of Nominees, Surat, decree holder filed execution petition before the 4th Joint Civil Judge (S.D.) Surat camp at Bardoli. The said execution petition was numbered as Special Darkhast No.73/1993. In response to the notice issued by the Executing Court, the judgement debtor appeared before the Executing Court and filed various objections. By order dated 17-12-1994 below Exh.1, the Executing Court issued a Jungam Warrant for recovery of Rs.92,267.21 ps. It seems that against the aforesaid order, Revision Application was preferred before this Court the same being numbered as Civil Revision Application No.47/1995. This Court disposed of the said application by its order dated 21st June, 1995 with certain observations.

2) Thereafter, by application below Exh.67 judgement debtors applied to issue summons to the Assistant Manager of the District Sell and Purchase Union, Surat, for recording his evidence regarding settlement which took place in between. The learned Civil Judge (S.D.) Surat, by his order dated 17-9-197 allowed the said application and passed an order of issuing summons to the Assistant Manager (Khatar) of the plaintiff's Sangh.

3) It is the said order, which is impugned in this revision application. The executing Court also passed two other interlocutory orders at Exh.57 and 69. By order below Exh.57, the executing Court suspended the order in connection with public auction till 12-9-1997. Below Exh.69 also an order was passed during the pendency of the said execution petition.

4) In the present revision, all these three orders are challenged, which were passed during the pendency of the execution petition, therefore, the same are interlocutory in nature. In view of the amendment in Section 115 of the C.P.C. this revision application is not maintainable, as the same is filed against interlocutory orders, where the main execution application is still pending. Therefore, without examining the merits of the main matter, this revision application is disposed of as the same is not maintainable in view of the amendment in C.P.C.

5) Accordingly, this Civil Revision Application is disposed of, as the same is not maintainable. Rule is discharged. Interim relief stands vacated. It will be

open for the petitioners to challenge the impugned orders by filing Special Civil Application under Article 227 of the Constitution of India, if so advised.

(P.B.Majmudar,J.)

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